

FILED

AUG 01 2008

PATRICK E. DUFFY, CLERK

By DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

LLOYD SCOTT MAIER,)	CV 08-26-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
MARTIN MAVRINAC, et al.,)	
)	
Defendants.)	
_____)	

Plaintiff Maier has filed a Complaint under 42 U.S.C. § 1983 raising constitutional free exercise and Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA") claims as well as a claim under the Americans with Disabilities Act ("ADA"). The Defendants have filed a motion to dismiss Count Four of the Complaint (the ADA claim) for failure to exhaust administrative remedies. Plaintiff Maier does not dispute the Defendants' contention that he failed to exhaust the administrative remedies.


United States Magistrate Judge Keith Strong issued Findings

and Recommendations in which he recommends that Count Four be dismissed without prejudice for failure to exhaust administrative remedies. Plaintiff Maier did not timely object and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

I can find no clear error with Judge Strong's Findings and Recommendations and therefore adopt them in full.

Accordingly, IT IS HEREBY ORDERED that the Defendants' motion to dismiss (Doc. No. 15) is GRANTED, and Count Four of the Complaint, along with Defendants Young and Wood, is DISMISSED WITH PREJUDICE for failure to exhaust administrative remedies.

DATED this 14th day of August, 2008.



Donald W. Molloy, District Judge
United States District Court